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Owner: *David Behinfar: HCS Exec Dir Privacy*
Policy Area: *HIPAA - Privacy*
Policy Tag Groups:
Applicability: *UNCHCS - All except Pardee*

Personal Representatives

APPLICABILITY:

This policy applies to the following entities (collectively referred to as "UNC Health" in this policy):

✓ UNC Health Care System / UNC Medical Center*	✓ Johnston Health
✓ UNC Physicians Network	✓ Lenoir Memorial Hospital
✓ UNC Physicians Network Group Practices / UNC Physicians Group Practices II	Margaret R. Pardee Memorial Hospital
✓ Rex Healthcare / Rex Hospital	✓ Nash Healthcare System/Nash Hospitals
✓ Chatham Hospital	✓ Wayne Memorial Hospital
✓ Caldwell Memorial Hospital	
✓ UNC Rockingham Health Care / UNC Rockingham Hospital	

***UNC Medical Center includes all UNC Hospitals' facilities and the clinical patient care programs of the School of Medicine of UNC-Chapel Hill (including UNC Faculty Physicians).**

I. Description

UNC Health shall treat all Personal Representatives of patients as the patient, for purposes of using or disclosing PHI, to the extent of the Personal Representative's authority.

Included within the scope of this policy are the patient care programs of the UNC School of Medicine (UNC SOM). As a result, this policy shall apply to all UNC SOM personnel, including but not limited to faculty, staff, students, trainees, interns and volunteers who may be full-time, part-time, paid or unpaid who create, store, transmit, access or use any patient information in support of clinical purposes for UNC Health or any other healthcare entity.

II. Policy

- A. **Personal Representatives in General.** A person shall be recognized as a Personal Representative of a patient who is an **adult** or **emancipated minor**, if under applicable law, the person has authority to act on behalf of the patient.

B. **Unemancipated Minors.** A person shall be recognized as a Personal Representative of a patient who is an **unemancipated minor**, if the person is a parent, guardian, or other person acting *in loco parentis* with legal authority to make health care decisions on behalf of a minor child. Consult your facility's policy on authorized representatives of patients.

1. A person shall **not** be recognized as a Personal Representative on behalf of an **unemancipated minor** if:

- a. The minor and the parent, guardian, or person acting *in loco parentis* entered into an agreement for confidentiality with respect to the treatment to which the PHI pertains;
- b. The minor is authorized by law to consent to the treatment to which the PHI pertains, the minor did consent to the treatment, and the minor has not requested that the person be treated as a Personal Representative.
 - i. Under North Carolina law (§90-21.5(a)) a minor has the individual capacity to consent to treatment for the following conditions:
 - sexually transmitted diseases
 - pregnancy
 - alcohol and drug Abuse
 - mental health
- c. The minor has the exclusive right to inspect or obtain the type of records requested, as described in the UNC Health [Patient Right of Access to Inspect and Obtain a Copy of PHI Policy](#).

C. **Deceased Patients.** A person shall be recognized as a Personal Representative for a deceased patient if the person is an executor, administrator, or other person with legal authority to act on behalf of decedent or estate.

D. **Professional Judgment in Determining Personal Representatives.** A person is not required to be recognized as a Personal Representative of a patient, if, in the exercise of a provider's professional judgment, it is not in the best interest of the patient to treat the person as the patient's personal representative or the provider reasonably believes:

1. The patient has been or may be subjected to domestic violence, abuse, or neglect by the Personal Representative; or
2. Treating such person as the Personal Representative could endanger the patient.
3. If an individual is not recognized as a Personal Representative of a minor as described in this policy, and there is no applicable provision under state or other law that requires disclosure of PHI to a parent, guardian, or other person acting *in loco parentis*, UNC Health may provide or deny access to an individual upon the decision of a licensed health care professional exercising professional judgment.

III. Definitions

Personal Representative – an individual, authorized under law, to act on behalf of a patient in making health care related decisions

IV. References

45 C.F.R. §§ 164.502(a)(2)(i), (g), 164.524)

V. Related Policies/Forms

UNC Health [Patient Right of Access to Inspect and Obtain a Copy of PHI](#) Policy

UNC Health – [Authorized Representatives of Patients](#)

Attachments

No Attachments

Approval Signatures

Step Description	Approver	Date
	Jerylyn Williams: Chief Audit & Compliance Ofcr	06/2020
SYSTEM Site Administrator	Emilie Hendee: HCS Attorney Sr	06/2020
	David Behinfar: HCS Exec Dir Privacy	06/2020

Applicability

Caldwell Memorial Hospital, Chatham Hospital, Johnston Health, Nash UNC Health Care, UNC Health Care System, UNC Lenoir Health Care, UNC Medical Center, UNC Physicians Network, UNC Rex Healthcare, UNC Rockingham Health Care, Wayne Memorial Hospital